

## SUBCHAPTER F : LAKE LIMESTONE

### §284.101. Definitions.

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

**Authority** - The Brazos River Authority.

**Commission** - The Texas Water Commission.

**Evapotranspiration beds** - That part of a septic tank system consisting of two or more beds with drainage pipes that utilize evaporation and plant transpiration for the disposal of septic tank effluent.

**Evapotranspiration system** - Any subsurface system which utilizes surface evaporation and plant transpiration for the ultimate disposal of wastewater.

**Executive director** - The executive director of the Texas Water Commission.

**Holding tank** - A vented, watertight tank used for storing sewage until it is hauled to an approved final disposal site.

**Holding tank system** - A system for collecting and holding sewage and consisting of a holding tank and house sewer.

**House sewer** - The lines which carry sewage from the house plumbing system to a septic tank.

**Lake Limestone** - The lake located in Limestone, Robertson, and Leon Counties, created by the Sterling C. Robertson Dam on the Navasota River.

**msl** - The abbreviation for the phrase "mean sea level."

**Organized disposal system** - Any public or private system for the collection, treatment, and disposal of sewage operated in accordance with the terms and conditions of a permit from the Texas Water Commission.

**Private sewage facilities** - Facilities provided to serve only an individual household or establishment and appurtenant structures within a designated area and whose operation and maintenance is the sole responsibility of the householder or owner of the establishment's facilities. Such facilities provide for the storing of sewage until it is hauled to an approved disposal site or for the disposal of treated wastewater by subsoil absorption, evaporation, or evapotranspiration and are not subject to the issuance of waste discharge permits by the commission.

**Septic tank** - A vented, watertight tank, which serves as a sedimentation and sludge digestion chamber, which is placed between the house sewer and the soil absorption field, absorption bed, or evapotranspiration beds.

**Septic tank system** - A system for disposing of sewage utilizing the following components: the house sewer, the septic tank, and the soil absorption system, evaporation, or evapotranspiration system.

**Sewage** - Waste that is primarily organic and biodegradable or decomposable and that generally originates as human, animal, or plant waste from certain activities, including using toilet facilities, washing, bathing, and preparing food.

**Soil absorption system** - Any system that utilizes the soil for subsequent absorption of the treated sewage, such as an absorption trench or absorption bed.

**Standards** - The standards set forth in the pamphlet entitled "Construction Standards for On-Site Sewerage Facilities" and all future amendments thereto, which were adopted by the Texas Board of Health, pursuant to Texas Civil Statutes, Article 4477-1, as Texas Department of Health rules, 25 TAC §§301.11-301.17 (relating to Construction Standards for On-Site Sewerage Facilities), effective January 1, 1988.

**Subdivision** - A subdivision which has been platted and recorded with the county clerk of the county or counties in which the land lies, or which is required by statute to be so platted and recorded.

#### **§284.102. Regulated Area and Restricted Zone.**

(a) Regulated area. The commission designates the Lake Limestone regulated area as being all the area in the Lake Limestone watershed situated between the normal lake shoreline, which is the 363-foot msl contour line, and a line located parallel to and 2,000 feet horizontally away from the 363-foot msl contour line. If any part of a subdivision lies within the regulated area, the entire subdivision is included within the regulated area for purposes of this subchapter.

(b) Restricted zone.

(1) Within the regulated area, the commission designates the Lake Limestone restricted zone as being all of the area situated between the normal lake shoreline, which is the 363-foot msl contour line, and a parallel line which is located a distance of 75 feet from the 363-foot msl contour line, measured horizontally away from the lake shoreline.

(2) The construction of soil absorption systems, or parts thereof, is not allowed within any portion of the restricted zone. Septic tanks, holding tanks, tile or concrete sanitary sewer lines, sewer manholes, or other such sewerage facilities which are constructed in such manner that an interchange of sewage with lake water might possibly occur may not be constructed within the restricted zone.

#### **§284.103. Discharge of Sewage Within the Regulated Area.**

All sewage disposal within the regulated area shall be in accordance with one of the following types of authorization:

(1) sewage discharged into an organized disposal system operating under a valid permit issued by the commission;

(2) sewage discharged into a private sewage facility licensed by the authority in accordance with the regulations contained in this subchapter; or

(3) sewage discharged into a private sewage facility registered as existing on June 7, 1978, for so long as such private sewage facility is operating properly and is not causing nuisance conditions, pollution, or a threat to public health;

**§284.104. Authority Designated to Perform Licensing Functions of this Subchapter.**

(a) The Brazos River Authority is designated by the commission to perform all the functions necessary to meet the licensing requirements of this subchapter. The authority shall have the following powers:

- (1) to enforce all of the regulations contained in this subchapter;
- (2) to make inspections of all private sewage facilities located or to be located within the regulated area;
- (3) to collect all fees set by the authority as necessary to recover all costs incurred in meeting the requirements of this subchapter;
- (4) to establish procedures, prepare application forms, etc., as necessary to administer this program and to issue, renew, cancel, or transfer licenses, in accordance with the provisions of this subchapter; and
- (5) to perform all duties necessary to meet the requirements of this subchapter.

(b) The licensing requirements contained in this subchapter shall not be interpreted as altering or changing in any way the intent of the legislature as expressed in Texas Civil Statutes Article 4477-1.

**§284.105. Licensing Requirements for New Private Sewage Facilities.**

(a) Private sewage facilities that are installed or substantially altered within the regulated area after the effective date of this subchapter must meet the following requirements.

(1) All private sewage facilities to be installed or constructed after the effective date of this subchapter shall be built in accordance with the applicable standards and criteria established by the latest edition of the standards.

(2) A license for the private sewage facility must be obtained from the authority.

(3) Lots or tracts which will be served by private sewage facilities that utilize either soil absorption systems or evapotranspiration systems for the disposal of septic tank effluent and which are located in a subdivision that is created subsequent to the effective date of this subchapter must meet the requirements of the latest editions of the standards.

(4) Lots or tracts which will be served by private sewage facilities that utilize either soil absorption systems or evapotranspiration systems for the disposal of septic tank effluent and which are located in a subdivision that is created after June 7, 1978, and before the effective date of this subchapter, must average no less than one-half acre in size, considering all lot sizes in the particular subdivision, with the minimum size being 15,000 square feet for lots served by a public water supply and 20,000 square feet for lots served by individual water supply wells.

(5) A lot or tract that is not located in a subdivision or that is located in a subdivision that was created prior to June 7, 1978, must be large enough, considering the soil and drainage conditions and probable volume of sewage to be disposed of, to permit the use of the type of private sewage facility proposed without causing nuisance conditions, pollution, or a threat to public health.

(6) Approval for construction of private sewage facilities issued hereunder will expire unless the facilities are built within one year of the date that the approval is issued by the authority.

(b) Any developer or other interested person desiring to create a subdivision which will lie wholly or partially in the regulated area and on which private sewage facilities will be utilized must fulfill the following requirements.

(1) A plat of the proposed subdivision must be filed with and approved by the county commissioners courts having jurisdiction in the area, and it must then be recorded with the appropriate county clerks.

(2) An appropriate application for evaluation as to the type of private sewage facilities that may be licensed and used in the subdivision, together with the required fee, shall be filed with the authority.

(3) The authority will perform the necessary tests and inspections and advise the applicant as to the types of private sewage facilities that may be suitable for use in the subdivision.

(4) Advice by the authority as to types of private sewage facilities that may be suitable for use in the subdivision shall not constitute a license for a specific private sewage facility, but shall be a prerequisite for obtaining licenses for such facilities within the subdivision. Each private sewage facility installed within the subdivision must be licensed individually in accordance with the terms of this subchapter.

(5) Notice of this subchapter and its terms and conditions, as well as its applicability to the subdivision and each lot therein, must be given to every lot buyer by the developer, their agent, or assigns prior to the sale or transfer of any lot.

(c) License for a new private sewage facility shall be obtained as follows.

(1) Application forms for licenses may be obtained from the offices of the authority. In order to initiate an application for a license, the completed application form, together with the appropriate fee, shall be filed with the authority.

(2) The authority will, as soon as practicable after filing of an application, perform such inspections and tests as may be deemed necessary.

(3) Upon a finding that the proposed private sewage facility can meet the requirements of this subchapter and that there is no evidence that it will cause nuisance conditions, pollution, or a threat to public health, the authority will issue an authorization to proceed with its construction.

(4) The applicant shall notify the authority when the completed facility can be inspected prior to being backfilled with earth or otherwise covered. If the authority finds, on the basis of a field inspection, that the facility has been constructed in accordance with the authorization, a five-year license will be issued for its operation.

(d) The license issued by the authority for the new private sewage facility may be renewed for successive terms of five years if there is no evidence that the continued use of the private sewage facility will be in conflict with this subchapter or that continued use may cause nuisance conditions, pollution, or a threat to public health.

(e) Upon a finding by the authority that a license for the new private sewage facility cannot be issued or renewed under the terms of this subchapter, the applicant shall be notified in writing of that finding and of the defects which prevent licensing.

(f) The owner of a properly licensed private sewage facility shall be solely responsible for its operation and maintenance. Any licensed facility found by the authority at any time to be functioning improperly or not in accordance with the applicable standards of the Texas Department of Health or in such a manner as to cause nuisance conditions, pollution, or a threat to public health must be serviced, repaired, or replaced by the owner. If the required maintenance or corrective work cannot be accomplished immediately, the owner of such malfunctioning facility must stop discharging sewage into the facility until it has been satisfactorily serviced, repaired, modified, or replaced. All substantial modifications or expansions of a licensed private sewage facility or the construction of a replacement facility must be authorized and approved by the authority.

#### **§284.106. Existing Private Sewage Facilities.**

(a) Private sewage facilities existing within the regulated area as of June 7, 1978, were to be registered within 180 days after June 7, 1978, to evidence the fact that they were in existence as of that date. Registration was the responsibility of the owner of the private sewage facility concerned. Registration was to be accomplished on forms provided by the authority and mailed or delivered to the Lake Limestone supervisor's office. A copy of the registration form, certified as received by the authority, was returned to the owner and should be retained by the owner as proof of the registration. The private sewage facility registered in accordance with the Texas Department of Water Resources rules (§§371.101-371.115 of this title (relating to Lake Limestone)), which are replaced by this subchapter, is not required to be licensed, provided the facility is operated and maintained so as not to cause nuisance conditions, pollution, or a threat to public health.

(b) Any private sewage facility existing within the regulated area as of June 7, 1978, but not registered in accordance with subsection (a) of this section, must be licensed in the same manner as required for new facilities. In addition, any registered facility found by the authority at any time to be functioning improperly or not in accordance with the Texas Department of Health standards or in such a manner as to cause nuisance conditions, pollution, or a threat to public health, must, therefore, be improved or replaced by the owner, and must be licensed as a new facility following the procedures prescribed in §284.105 of this title (relating to Licensing Requirements for New Private Sewage Facilities). The owner of such malfunctioning facility must submit an application for a license within

30 days after receipt of written notification by the authority that the existing facility is functioning improperly. If an owner of a registered facility desires on his own initiative to expand, improve, or replace such registered facility, the owner must obtain a license for such expanded, improved, or replacement facility following the procedures prescribed in §284.105(c) of this title (relating to Licensing Requirements for New Private Sewage Facilities). Routine maintenance and repair of registered facilities may be accomplished without obtaining a license.

(c) Licenses for private sewage facilities issued by the authority pursuant to the Texas Department of Water Resources rules (§§371.101-371.115 of this title (relating to Lake Limestone)), which are replaced by this subchapter, shall remain in effect for the term stated therein as if issued pursuant to this subchapter.

#### **§284.107. Revocation or Suspension of Licenses.**

Licenses issued under the authority of this subchapter or previous rules may, for good cause, be revoked or suspended by the authority. Owners of facilities for which licenses are revoked or suspended must stop discharging sewage into such facilities upon written notification by the authority.

#### **§284.108. Transfer of Licenses.**

Any license issued under the authority of this subchapter shall be transferred to any succeeding owner of the private sewage facility upon application and payment of a transfer fee by the new owner. The authority may inspect the facility, and provided there is no significant change in amount or quality of sewage to be placed in the private sewage facility and no evidence of malfunction of the facility, shall transfer the license as requested and renew it for a five- year period. Licenses not properly transferred within 90 days to a new owner may be cancelled by the authority. If the license is cancelled, the new owner must submit an application for a new license within 30 days after notification by the authority of cancellation.

#### **§284.109. Connection of Private Sewage Facility to Organized Disposal Systems.**

In order to implement the stated policy of the legislature and the commission, which is that the development and use by interested and affected parties of organized disposal systems to serve the waste disposal needs of the citizens of the state and to prevent pollution and maintain and enhance the quality of the water in the state should be encouraged, the following requirements shall be observed:

(1) No private sewage facility will be licensed by the authority when any part of the facility is closer than 300 feet in horizontal distance to an organized waste collection, treatment, and disposal system; but instead, the house sewer to such facility shall be connected to the organized system and the license issued hereunder for the private sewage facility shall not be renewed on the next succeeding renewal date, unless it is determined by the authority that such connection is legally, physically, or economically infeasible.

(2) Whenever an organized disposal system is developed to within 300 feet in horizontal distance from any part of an existing private sewage facility, the house sewer connected to

such facility shall be connected to the organized system and the license issued hereunder for that private sewage facility shall not be renewed on the next succeeding renewal date, unless it is determined by the authority that such connection is legally, physically, or economically infeasible.

**§284.110. Exceptions.**

The commission intends that the regulations contained in this subchapter shall be strictly enforced, but realizes that certain individual situations may require the granting of an exception to the requirements of this subchapter so that hardships may be avoided. Therefore, the following terms and conditions are established.

(1) Any person desiring an exception shall file an application with the authority for its analysis of the need and reason for the exception.

(2) The authority shall review the application and issue a statement either granting or denying the application. When an application is denied, the statement shall set out the reasons for the authority's decision.

**§284.111. Terms and Conditions for Appeal.**

(a) The commission intends that any disputes concerning the application of this subchapter to individual situations be negotiated to conclusion between the licensing authority and the individuals involved, if possible. However, any person aggrieved by an action or decision of the licensing authority may appeal to the Texas Water Commission if the following terms and conditions of this subchapter have been met.

(1) All of the appropriate steps required by the aggrieved person by the terms and conditions of this subchapter have been met.

(2) The aggrieved person has made a conscientious effort to resolve his problems with the licensing authority.

(b) Appeal is properly made by the aggrieved party by filing a written statement stating with specificity the nature of the grievance. This statement is to be filed with the executive director of the commission who will then cause notice of the appeal to be issued to the licensing authority. The executive director will then forward the appeal to the Texas Water Commission for its consideration.

**§284.112. License Fees.**

License fees will be in accordance with §284.115 of this title (relating to Fee Schedule). These fees shall be paid to and collected by the authority so long as the authority is delegated the licensing function and the administration of the licensing system specified in this subchapter. The establishment of the fee schedule does not impair or prohibit the imposition of reasonable charges by the authority for special services performed by it at the request of the applicant in connection with presentation of an application and the required data. Percolation tests and other examinations will be performed by the

authority on a fee basis. These tests may also be performed by engineering firms or soil testing laboratories approved by the authority.

**§284.113. Enforcement.**

(a) Criminal penalty, Texas Water Code, §26.214.

(1) A person who violates any provision of this subchapter is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200. Each day that a violation occurs constitutes a separate offense.

(2) Jurisdiction for prosecution of a suit under this section is in the justice of the peace courts.

(3) Venue for prosecution of a suit under this section is in the justice of the peace precinct in which the violation is alleged to have occurred.

(b) Civil penalty. A person who violates any provision of this subchapter is subject to a civil penalty for each act of violation and for each day of violation, to be recovered as provided in the Texas Water Code, Chapter 26.

**§284.114. Severability.**

If any provision of this subchapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this subchapter which can be given effect without the invalid provisions or application, and to this end, the provisions of this subchapter are declared severable.

**§284.115. Fee Schedule.**

The authority shall establish a fee schedule for the private sewage facilities regulatory program around Lake Limestone and maintain a copy of such fee schedule at authority offices for inspection by the public. Such fee schedule shall set reasonable fees for services performed by or at the direction of the authority and may, subject to applicable laws, be amended by the authority from time to time.